

DO

FR-4915-01-P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 339X)]

Union Pacific Railroad Company—Abandonment Exemption—In Harris and Chambers Counties, Tex.

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 C.F.R. pt. 1152 subpart F—Exempt Abandonments to abandon a 2.23-mile portion of the U.S. Steel Industrial Lead between milepost 2.4 in Baytown and milepost 4.63 at the east side of Cedar Bayou, in Harris and Chambers Counties, Tex. (the Line).<sup>1</sup> The Line traverses U.S. Postal Service Zip Codes 77520 and 77523.

UP has certified that: (1) no local or overhead traffic has moved over the Line for at least two years; (2) there is no need to reroute any traffic over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 C.F.R. § 1105.12 (newspaper publication), 49 C.F.R. § 1152.50(d)(1)

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<sup>1</sup> UP previously obtained authority to abandon the Line, but did not file a notice of consummation within the time period prescribed by 49 C.F.R. § 1152.29(e)(2). See Union Pac. R.R.—Aban. Exemption—In Harris & Chambers Ctys., Tex., AB 33 (Sub-No. 324X) (STB served Mar. 29, 2017).

(notice to governmental agencies), 49 C.F.R. § 1105.11 (transmittal letter), 49 C.F.R. § 1105.7 and 1105.8 (environment and historic report) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. § 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received,<sup>2</sup> this exemption will become effective on August 7, 2019, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,<sup>3</sup> formal expressions of intent to file an OFA under 49 C.F.R. § 1152.27(c)(2),<sup>4</sup> and interim trail use/rail banking requests under 49 C.F.R. § 1152.29 must be filed by July 18, 2019. Petitions to reopen or requests for public use conditions

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<sup>2</sup> Persons interested in submitting an OFA must first file a formal expression of intent to file an offer, indicating the type of financial assistance they wish to provide (i.e., subsidy or purchase) and demonstrating that they are preliminarily financially responsible. See 49 C.F.R. § 1152.27(c)(2)(i).

<sup>3</sup> The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. See Exemption of Out-of-Serv. Rail Lines, 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

<sup>4</sup> Filing fees for OFAs and trail use requests can be found at 49 C.F.R. § 1002.2(f)(25) and (27), respectively.

under 49 C.F.R. § 1152.28 must be filed by July 29, 2019, with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001.

A copy of any petition filed with the Board should be sent to UP's representative: Jeremy Berman, General Attorney, 1400 Douglas St. #1580, Omaha, NE 68179.

If the verified notice contains false or misleading information, the exemption is void ab initio.

UP has filed a combined environmental and historic report that addresses the potential effects of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 12, 2019. The EA will be available to interested persons on the Board's website, by writing to OEA, or by calling OEA at (202) 245-0305. Assistance for the hearing impaired is available through the Federal Relay Service at (800) 877-8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or interim trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 C.F.R. § 1152.29(e)(2), UP shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line. If consummation has not been effected by UP's filing of a notice of consummation by July 8, 2020, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

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Board decisions and notices are available at [www.stb.gov](http://www.stb.gov).

Decided: July 1, 2019

By the Board, Allison C. Davis, Director, Office of Proceedings.